

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 98-0445

Gross Income Tax

Fiscal Years 03/31/93, 03/31/94, 03/31/95

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ISSUE(S)

I. Tax Administration – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

II. Tax Administration – Interest

Authority: IC 6-8-1-10-1

Taxpayer protests the interest assessed.

STATEMENT OF FACTS

Taxpayer, a Delaware corporation, protests penalties and interest assessed. A supplemental audit was completed on August 2, 1999 and the taxpayer has provided a withdrawal letter dated August 24, 1999 in which it agrees with the supplemental. Taxpayer, however, requests a waiver of interest and penalty.

In lieu of a scheduled hearing, taxpayer submitted a letter dated September 27, 1999 and states there was no willful intent to avoid corporate income taxes for the tax periods.

I. Tax Administration - Penalty

DISCUSSION

Taxpayer protests the penalty assessed with its primary defense that there was no willful intent to avoid paying the appropriate taxes during the audit time frame.

Taxpayer has been audited previously with most of the same issues present. Taxpayer failed to add back real and personal property taxes, the issue, which was present in a prior audit. Failure to make corrections from a prior audit enables the department to subject the taxpayer to a negligence penalty.

FINDING

Taxpayer's protest is denied.

II. Tax Administration - Interest

DISCUSSION

Taxpayer protests the interest assessed.

The department has no authority to waive interest.

FINDING

Taxpayer's protest is denied

CONCLUSION

Taxpayer's protest is denied for issues I and II.